

ANNETTE ISLAND SCHOOL DISTRICT

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July 10, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

Re **CC Docket No. 02-6**

Petition for Waiver of FCC Form 486 filing deadline

Form 471 Application No. 746414

Applicant: Annette Island School District, BEN 145693

Dear Secretary Dortch,

With this letter Annette Island School District ("AISD") requests a waiver of the FCC Form 486 filing deadline in the case of Funding Request Number 2054682, which appeared on the captioned funding application under the Schools and Libraries Universal Service Support Mechanism ("E-Rate").

**Background**

AISD provides a quality education to the children of the community of Metlakatla, Alaska, which is located on Annette Island's Indian reserve -- the only Indian reservation in the state.

USAC issued the Funding Commitment Decision Letter for funding requests on this funding application on 11/23/2011 -- well after the end of the 2010 funding year. This led to some confusion about the funding requests for which we needed to submit Form 486, and as a result we were late in submitting FCC Form 486 for one of our funding requests (FRN 2054682).

If SLD's procedures for missing a Form 486 filing deadline were to be strictly applied, the result of this simple clerical error would be a total loss of committed funding for the affected Funding Request -- and it would be our students who would bear the consequences of this unfortunate clerical error.

Although AISD management does exercise its best efforts to ensure absolute compliance with all E-Rate rules and deadlines, realistically it is beyond the control of AISD to totally eliminate the possibility of the isolated clerical or administrative error.

## Analysis

Due to factors not reasonably within its control, AISD was unable to fully comply with the requirement to file Form 486 by the normal 120 day limit after the latter of the service start date and the Funding Commitment Decision Letter date for funding application 746414. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Alaska Gateway*<sup>1</sup>, the Federal Communication Commission's ("Commission") Wireline Competition Bureau ("Bureau") found that where special circumstances are present and a Form 486 was not filed on a timely basis, good cause exists to grant a waiver of the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application without a postponement of the funding start date. The Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. The Bureau has consistently applied the *Alaska Gateway* standard in subsequent orders granting waivers of the Form 486 filing deadline, including *State of Arkansas Department of Information Systems*<sup>2</sup>, *Alcona County Library*<sup>3</sup>, *Children of Peace School*<sup>4</sup>, *Academy St. Benedict – Stewart*<sup>5</sup>, *Bancroft Neurohealth*<sup>6</sup>, and *Archdiocese of Chicago School*<sup>7</sup>.

The cited orders were consistent with *Bishop Perry*<sup>8</sup>, where the Commission found that under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Telecommunications Act of 1996 – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

The Bureau further noted in *Alaska Gateway* and in *Alcona County Library* that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. That would certainly be the case if AISD were to be denied the opportunity to request reimbursement for its eligible expenses. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

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<sup>1</sup> *Alaska Gateway School District et al*, 21 FCC Rcd 10182 (DA 06-1871)

<sup>2</sup> *State of Arkansas Department of Information Systems et al*, 23 FCC Rcd 9373 (DA 08-1418)

<sup>3</sup> *Alcona County Library et al*, 23 FCC Rcd 15500 (DA 08-2379)

<sup>4</sup> *Children of Peace School et al*, 25 FCC Rcd 5492 (DA 10-885)

<sup>5</sup> *Academy St. Benedict – Stewart et al*, 25 FCC Rcd 17309 (DA 10-2352)

<sup>6</sup> *Bancroft Neurohealth et al*, 26 FCC Rcd 10948 (DA 11-1239)

<sup>7</sup> *Archdiocese of Chicago School* (DA 12-28)

<sup>8</sup> *Bishop Perry Middle School et al*, 21 FCC Rcd 5316 (FCC 06-54)

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**Request for Relief**

For the reasons stated in this letter, AISD respectfully requests that the Bureau grant a waiver of the FCC Form 486 filing deadline for the cited E-rate funding application. We also ask that the Bureau, consistent with precedent, direct USAC to waive any of its subsequent deadlines related to the late-filed FCC Form 486<sup>9</sup>.

On behalf of our current students, AISD also respectfully requests that the Bureau expedite consideration of this petition. Timely action by the Bureau would support the goals of the E-Rate program, especially with respect to our current students whose educational success would be compromised by a delay in our receipt of our committed E-Rate reimbursement funds.

ANNETTE ISLAND SCHOOL DISTRICT

*Kela Halfmann*

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<sup>9</sup> E.g., see *Children of Peace School et al*, footnote 24